

STATE OF NEW YORK SUPREME COURT  
COUNTY OF ERIE

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FRAGRANCE HARRIS STANFIELD;  
YAHNIA BROWN-MCREYNOLDS;  
TIARA JOHNSON; SHONNELL HARRIS-  
TEAGUE; ROSE MARIE WYSOCKI;  
CURT BAKER; DENNISJANEE BROWN;  
DANA MOORE; SCHACANA GETER;  
SHAMIKA MCCOY; RAZZ'ANI MILES;  
PATRICK PATTERSON; MERCEDES  
WRIGHT; QUANDRELL PATTERSON;  
VON HARMON; NASIR ZINNERMAN;  
JULIE HARWELL, individually and as  
parent and natural guardian of L.T., a minor;  
LAMONT THOMAS, individually and as  
parent and natural guardian of L.T., a minor;  
LAROSE PALMER; JEROME BRIDGES;  
MORRIS VINSON ROBINSON-  
MCCULLEY; KIM BULLS; CARLTON  
STEVERSON; and QUINNAE THOMPSON,

Hon. Paula L. Feroletto  
Index No. 810317/2023

Plaintiffs,

v.

MEAN LLC; VINTAGE FIREARMS, LLC;  
RMA ARMAMENT, INC.; ALPHABET  
INC., GOOGLE, LLC; YOUTUBE, LLC;  
REDDIT, INC.; PAUL GENDRON; and  
PAMELA GENDRON,

Defendants,

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**AFFIRMATION OF ERIC TIRSCHWELL IN SUPPORT OF PLAINTIFFS'  
OPPOSITION TO DEFENDANT MEAN L.L.C.'S MOTION TO DISMISS  
PLAINTIFFS' COMPLAINT PURSUANT TO THE PROTECTION OF LAWFUL  
COMMERCE IN ARMS ACT AND C.P.L.R §§ 3211(a)(3), 3211(a)(7) & 3211 (a)(8)  
(Motion #006)**

**Eric Tirschwell** affirms the following to be true to the best of his knowledge and states the following under penalty of perjury:

1. I am an attorney duly licensed to practice law in the State of New York and serve as the Executive Director and Chief Litigation Counsel of Everytown Law. I am counsel for the Plaintiffs in two related actions: *Jones v. MEAN LLC, et. al.* (No. 810316/2023) and *Stanfield, et al. v. MEAN LLC, et al.* (No. 810317/2023). As such, I am familiar with the facts and circumstances of the litigation and the facts stated herein.

2. I submit this Affirmation in support of Plaintiffs' consolidated opposition to the motion to dismiss filed by Defendant MEAN LLC ("Mean").

3. I have attached as **Exhibit A** to this Affirmation a true and correct copy of the Order Regarding Defendant's Motion to Dismiss, issued by Judge David M. Jones in the District Court of Nevada, Clark County, on March 23, 2022, and downloaded from Westlaw.

4. I have attached as **Exhibit B** to this Affirmation a true and correct copy of the Complaint filed by the New York Attorney General against Mean in the County of New York Supreme Court, Index No. 451340/2023. That complaint states, at paragraph 13: "Mean Arms is deceptively and falsely advertising to purchasers within New York, including via its website, YouTube, and third-party sellers, that installing an MA Lock on a semiautomatic rifle, that otherwise may be an illegal assault weapon under New York law, makes the weapon legal."

5. On page 27, footnote 24, of the *Jones* Complaint, NYSCEF No. 2, and on page 47, footnote 31, of the *Stanfield* Complaint, NYSCEF No. 3, a webpage address is provided for an archived webpage from the New York SAFE Act website that is currently available on the Internet Archive Wayback Machine and which captures how the website appeared on November 29, 2016: <https://web.archive.org/web/20161129092548/https://safeact.ny.gov/gun->

owners?width=550&height=275&inline=true#rifle. Because it may be difficult to access this webpage by cutting and pasting the webpage address from the Complaints, I have included below a screenshot from the relevant portion of the webpage quoted by paragraph 121 of the *Jones* Complaint, and by paragraph 202 on page 47 of the *Stanfield* Complaint:

**Q: If I modify my gun by removing all design characteristics that makes it an assault weapon, do I have to register it?**

close -

A: No. If you modify your gun so that it is not an assault weapon, you do not have to register it. The modification must be permanent however. This includes, for example, removing the bayonet lug by cutting or grinding, grinding off the threads on the barrel, removing the foregrip so that it cannot be readily reattached, or any change that cannot be reversed through reasonable means.

On information and belief, this portion of the New York SAFE Act website was on the website throughout the relevant period described in the Complaints, including from November 29, 2016, through May 14, 2022.

6. In addition, another webpage from the New York SAFE Act website that is available on the Internet Archive Wayback Machine, captures how a webpage, as it appeared on February 28, 2020, listed categories of “Rifles that ARE classified as assault weapons” and is available at this web address: <https://web.archive.org/web/20200228235253/https://safeact.ny.gov/sites/default/files/assets/documents/RiflesthatAREclassifiedasassaultweapons.pdf>. Below is a true and correct screenshot of page 5 of that presentation, which lists as an assault weapon “Any AR-15 variant designed to fire ammunition in any caliber” manufactured by Bushmaster Firearms International:



## Rifles that ARE classified as assault weapons:

Any AR-15 variant designed to fire ammunition in any caliber manufactured by the firms listed below

Bartlett Enterprises	Century Arms
Battle Born	Charles Daly firearms
BCM	Christensen Arms
Black Heart International (BHI)	CMMG
Black Hole Weaponry	Colt Canada (previously Diemaco)
Black Rain Ordnance	Colt's Manufacturing Company
Blackthorne	Continental Machine & Tool (CMT)
BOHICA	Core 15 Rifles Systems
Bushmaster Firearms International	Crusader Weaponry
C3 Defense	Dalphon
Carolina Mountain Tactical	Dane Armory
Cavalry Arms	Daniels Defense
CD Defense	
Centurion Arms	

Archived pages on the Internet Archive Wayback Machine show that this portion of the New York SAFE Act website was on the website from at least as early as November 29, 2016, through at least as late as June 20, 2020. The archived webpage from November 29, 2015, is available at this web address: <https://web.archive.org/web/20161129221018/https://safeact.ny.gov/sites/default/files/assets/documents/RiflesthatAREclassifiedasassaultweapons.pdf>. The archived webpage from June 20, 2020, is available at this web address: <https://web.archive.org/web/20200620145624/https://safeact.ny.gov/sites/default/files/assets/documents/RiflesthatAREclassifiedasassaultweapons.pdf>.

7. On September 23, 2019, Letitia James, New York Attorney General, issued cease-and-desist letters to firearm products website operators in reliance on Gen. Bus. Law §§ 349 and

350. A copy of the letter is available on the official website of the New York Attorney General. See *Letter from Letitia James, Attorney General* (Sept. 23, 2019), [https://ag.ny.gov/sites/default/files/ghost\\_gun\\_cease\\_and\\_desist\\_letter.pdf](https://ag.ny.gov/sites/default/files/ghost_gun_cease_and_desist_letter.pdf). That enforcement action caused 17 website operators to cease selling their firearm products into New York, which was announced in a press release on the official website of the New York Attorney General. *Press Release: Attorney General James Stops Sales of “Ghost Guns” into New York* (July 15, 2020), <https://ag.ny.gov/press-release/2020/attorney-general-james-stops-sales-ghost-guns-new-york>.

8. In a document drafted by the Shooter—referred to in the Complaints as the “Shooter’s Document,” see Jones Compl. ¶ 73 n.3, Stanfield Compl. ¶ 154 n.11—the Shooter included a photo of the Bushmaster XM-15 rifle that he purchased from Vintage Firearms, LLC, and from which he removed the fixed magazine. The photo below is a true and correct screenshot of a portion of page 61 of the Shooter’s Document which depicts a rifle with a pistol grip that protrudes conspicuously beneath the action of the weapon.

### **Bushmaster XM-15 E2S Target**



9. Wherefore, the undersigned respectfully requests that Mean’s motions to dismiss Plaintiffs’ Complaints be denied.

DATED: December 18, 2023  
New York, NY



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**CERTIFICATE OF COMPLIANCE**

This affirmation complies with the type-volume limitation of 22 NYCRR § 202.8-b because it contains 767 words, excluding the parts exempted by the rules. This affirmation also complies with the typeface requirements of 22 NYCRR § 202.5(a) because it has been prepared using Microsoft Word and Times New Roman typeface, 12-point font, and 1" margins.

DATED: December 18, 2023  
New York, NY



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